

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CELINE RENE HERRIGES,
DANIEL TODD MODEL, JR., TYSON JACOB
MODEL, and CAILLOU C-JAY MODEL,
Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

THERESA RENE GOIN,

Respondent-Appellant.

UNPUBLISHED
May 10, 2007

No. 274105
Oakland Circuit Court
Family Division
LC No. 05-714204-NA

Before: Talbot, P.J., and Donofrio and Servitto, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(i), (b)(ii), (g), (j), and (l). We affirm.

The termination petition alleged that Caillou was injured when his brother, Daniel, pushed him from a mattress in the basement. Respondent was not supervising the children at the time. The petition alleged that respondent had an extensive history with Protective Services in addition to a prior termination of parental rights. Respondent pleaded no contest to the petition and requested a separate best interests hearing. The trial court was obligated to terminate respondent's parental rights unless it appeared, on the whole record, that termination was not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

On appeal, respondent challenges only the trial court's determination regarding the children's best interests. Numerous service workers testified at the best interests hearing. Based on the testimony presented, it was clear that respondent was dedicated to her children and that she made every effort to utilize and take advantage of services on their behalf. Daniel was enrolled in a special education school program and efforts were underway to determine a definitive diagnosis and treatment plan for his emotional and intellectual limitations at the time the children were removed from respondent's care. Respondent also sought out counseling for Celine and obtained a mentor for the child. Tyson and Caillou were both enrolled in Head Start. Respondent was characterized as an active and willing participant in programs provided by

Wraparound Services and Moms Mentoring Moms. Even the service workers who testified that termination was appropriate acknowledged respondent's compliance with all requests and recommendations. The petition that was filed sought termination at the original disposition. Additional services were neither identified nor offered to respondent, although it was clear that she would have probably complied with any recommendations for service provision. The record further demonstrates that the children maintain a very strong bond with their mother and that services were available to continue to assist the family to remain together.

However, evidence also existed regarding the termination of respondent's parental rights to an older child and a history of social service involvement and intervention beginning in 1996 for respondent and her children. The results of psychological evaluations, which were conducted, revealed that respondent had a learning disability and a long history of depression and mental illness, including two psychiatric hospitalizations. The clinician opined that respondent's needs were ongoing and rendered her incapable of providing appropriate care for the minor children. Respondent's history with the children showed ongoing incidents of neglect encompassing having left one child in a baby carrier in a mall parking lot because she forgot him, physical abuse of another child and lack of supervision resulting in injuries to the children by their sibling. Testimony revealed that respondent's own needs were so extensive and encompassing that she was incapable of providing appropriate care and supervision for her minor children.

This is an unusual case. As recognized by the referee:

The Court finds this case to be absolutely unique amongst the hundreds it hears. The community and social service agencies have absolutely stepped up to the plate in an amazing way. There are services galore for this family. There are devoted advocates touting their abilities to all work together for the betterment of the children. They lauded mother's efforts, cooperation, and growth. They provide almost constant services to this family and believe that things are going along fine and, in fact, almost to the point of closing their eyes to the reason this matter came into the Court.

There is no question that mother loves these children. There is no question that she is cooperative with her service providers. She is a good and honest person. Her children have noted special needs that will no doubt be compounded by adolescence.

It is undisputed that these children have very special needs, particularly given the one child's diagnosis of autism. Even though respondent is cooperative with the use of support services for herself and the minor children, the court's concern that "there was no end in sight nor was there an end to this programming – it could be indefinite" was not inappropriate.

The court indicated concern regarding the continued availability of the plethora of services currently available to respondent, which are absolutely necessary for her maintenance of the children within her home. The court also expressed doubt, based on respondent's history and the incident involving lack of supervision by respondent, which gave rise to the current petition, that even with the maintenance of such services there will continue to "be lapses with regard to mother's physical disciplining of the children, her leaving them together unsupervised in a

basement, and her lapses of judgment.” While we believe it is not appropriate to speculate regarding the availability of future services, the remainder of the stated concerns, coupled with respondent’s history, is sufficient to support a termination of respondent’s parental rights.

In effect the court was indicating that despite respondent’s compliance and good intentions, “she did not sufficiently benefit from the services offered to enable the court to find that she could provide a home for her children in which they would no longer be at risk of harm.” *In re Gazella*, 264 Mich App 668, 677; 692 NW2d 708 (2005). Unfortunately, respondent’s prognosis could be characterized as “poor to fair” because, “notwithstanding substantial compliance with the case service plan, it was highly questionable whether she could care for the children unaided at any reasonable time in the foreseeable future.” *Id.* at 672. Respondent, who is herself developmentally disabled, may never be capable of providing the discipline, control, supervision and care to meet the physical and emotional needs of her children and that she will not be able to attain the necessary skills within a reasonable time. Unfortunately, respondent is restricted in attaining the requisite skills by her own developmental limitations. Although we are sympathetic to respondent’s disability and recognize her efforts and compliance, the primary concern of this Court in reviewing the termination of parental rights must be the best interests of the children. As such, the record supports the trial court’s determination that there is a reasonable likelihood the children will be harmed if returned to respondent’s care. Further, it is unlikely that the identified problems or conditions can be rectified within a reasonable time. Therefore, termination was proper.

Affirmed.

/s/ Michael J. Talbot
/s/ Pat M. Donofrio
/s/ Deborah A. Servitto